

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Carozzi et al. Confirmation No.: 5780
Appl No.: 10/782,570 Group Art Unit: 1638
Filed: February 19, 2004 Examiner: Anne R. Kubelik
For: AXMI-007, A DELTA-ENDOTOXIN GENE AND METHODS FOR ITS USE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO REQUEST FOR INFORMATION
UNDER 37 C.F.R. § 1.105**

This is in response to the Request for Information dated July 22, 2008, in which the Examiner has required answers to the following interrogatories eliciting factual information.

(i) What is the source of *B. thuringiensis* strain ATX13026? Please supply all of the designations/denominations used for this strain.

(ii) At or before the time of filing of the instant application or any provisional application to which benefit is claimed, had said *B. thuringiensis* strain ATX13026 been disclosed or made publicly available? If so, under what designation/denomination and under what conditions were said strain disclosed or made publicly available and from when to when?

Applicants respectfully disagree. The claims of the instant invention encompass an isolated nucleic acid sequence, constructs comprising the nucleic acid, and transgenic host cells, plants, and seeds comprising the nucleic acid construct. The strain from which this nucleic acid sequence was derived is not being claimed, thus, this information is not material to patentability of the instant claims. Applicants respectfully request that the request for information under 37 CFR § 1.105 be withdrawn.

Appl No.: 10/782,570
Response dated July 31, 2008
Reply to Request for Information of July 22, 2008

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/destiny m. davenport/

Destiny M. Davenport
Registration No. 60,360

CUSTOMER NO. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JULY 31, 2008.
---	---